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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,087	10/22/2003	Morton Curtis SR.	CUR-1001-US	4789

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EXAMINER

JIANG, CHEN WEN

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,087

Applicant(s)

CURTIS, MORTON

Examiner

Chen-Wen Jiang

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10 and 13-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 9, 13 and 15-23 is/are rejected.
- 7) ☒ Claim(s) 7, 10 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,4,9,13,17,19,20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Byrnes et al. (U.S. Patent Number 6,070,660).

Byrnes et al. disclose a variable speed fan motor control for air-conditioning system. Controls have been developed for forced air heating/cooling systems wherein the indoor space air circulating fan drive motor is driven at reduced speed for a period of time during startup of the heating/cooling system (col.1, lines 36-39). Byrnes et al. also disclose the period of time depending on the temperature differential, therefore, it is adjustable. The motor speed controller 30, as shown in Fig.2, may be connected to the conventional integrated controller 10 without interrupting any of the circuitry of the control system, including its connections to the electrical power source, the motor 26 or the actuator. Under the principals of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *Ir re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

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3. Claims 1,2,4,9,13,17,19,20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Archer (U.S. Patent Number 5,592,059).

Archer discloses a variable speed fan motor control for air-conditioning system. Control circuit 116 receives the temperature signal T_1 via line 122 from temperature sensor 120 and generates the motor control signal in response thereto. The motor control signal causes motor 102 to initially operate in a first operating mode. The first operating mode is defined as operation at a preset and/or minimum speed or torque and continues until the temperature of the discharged air as represented by the temperature signal T_1 reaches a preset and/or reference temperature as represented by a signal T_{ref} motor 102 is preferably an electronically controllable motor. Such motors include variable speed motors, selectable speed motors having a plurality of finite, discrete speeds and brushless DC motors, including electronically commutated motors and switched reluctance motors. Under the principals of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *Ir re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byrnes et al. (U.S. Patent Number 6,070,660) in view of Espinosa (U.S. Patent Number 4,757,694).

Byrnes et al. disclose the invention substantially as claimed. However, Byrnes et al. do not disclose the detail of speed control comprising a time delay circuit and a single pole, double throw delay. Espinosa discloses a time delay circuit and a single pole, double throw delay in the same field of endeavor for the purpose of speed control. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Byrnes et al. with a time delay circuit and a single pole, double throw delay in view of Espinosa so as to control speed.

6. Claims 3,5,15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archer or Byrnes et al.

In regarding to claims 3,5,15 and 16, it is noted that applicant recites a delay period and first speed selection. Archer and Byrnes et al. disclose reduced first speed and the delay time depends on the temperature measurement. Upon a close review of applicant's specification, it appears that the claimed delay time and speed selection does not have any criticality and/or lead to any new and unexpected results. Therefore, it would have been obvious to one of ordinary skill in the art to have selected the claimed delay time of 5 to 10 minutes and first speed at 70% of the second speed since these particular selections provide no better or improved performance over that which is commonplace in the prior art.

7. Claims 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archer or Byrnes et al. in view of Hile (U.S. Patent Number 4,389,853).

Archer and Byrnes et al. disclose the invention substantially as claimed. However, Archer and Byrnes et al. do not disclose introducing outside air with damper. Hile discloses introducing outside air with damper in the same field of endeavor for the purpose of energy saving. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Archer or Byrnes et al. with a damper in view of Hile so as to improve efficiency.

8. Claims 18,21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archer or Byrnes et al. in view of Obler (U.S. Patent Number 4,210,278).

Archer and Byrnes et al. disclose the invention substantially as claimed. However, Archer and Byrnes et al. do not disclose introducing outside air with damper and return air humidity sensor. Obler discloses a damper 118 and sensing mechanisms 62,64,66,68,70 and 72 in the same field of endeavor for the purpose of having fresh air and sensing return air humidity. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Archer or Byrnes et al. with a damper and sensor in view of Obler so as to improve air quality.

Allowable Subject Matter

9. Claims 7,10 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Tuesday-Friday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

